REMARKS/ARGUMENTS

Claims 1-26 remain in this application, all of which stand rejected.

1. Information Disclosure Statement

The Examiner has refused to consider the Non-Patent Literature (NPL) documents submitted to the Office, by applicant, as part of an IDS filed via EFS on 11/16/2006. More specifically, the Examiner asserts that the IDS form submitted on 11/16/2006 does not specifically reference the NPL documents, and there is no place for the Examiner to initial that the NPL documents have been reviewed.

Attached as an Appendix to these Remarks/Arguments is an "Electronic Acknowledgement Receipt" that applicant received from the Office on 11/16/2006, confirming the Office's receipt of applicant's IDS. The receipt clearly shows that the Office received six files, the first of which is described as a "Foreign Reference", but which has a file name indicating that it is a Form PTO/SB/08a. The remaining five files are NPL documents.

As previously noted by applicant, the "Transaction History" viewable in PAIR does not reflect the filing of applicant's IDS on 11/16/2006. Although the "Image Wrapper" viewable in PAIR contains the five NPL documents that were submitted with applicant's 11/16/2006 IDS, the "Image Wrapper" does not contain a Form PTO/SB/08a, or any other "sixth document" that was filed via EFS on 11/16/2006. A discrepancy therefore exists between the number of documents referenced by applicant's "Electronic Acknowledgement Receipt" and the number of documents that PAIR indicates were filed on 11/16/2006.

A print of the Form PTO/SB/08a that applicant filed on 11/16/2006 is also attached as an Appendix to these Remarks/Arguments. Of note, applicant's electronic copy of this Form PTO/SB/08a reflects a file size of 679,050 bytes, which is the same file size reflected on the attached copy of applicant's "Electronic Acknowledgement Receipt".

In light of the above facts, applicant asserts that a fully-completed Form PTO/SB/08a was filed with the NPL documents submitted on 11/16/2006, and the blank IDS form referenced by the Examiner (which blank IDS form is not viewable as part of PAIR's "Image Wrapper") was associated with applicant's file by mistake of the Office. Applicant requests full consideration of the NPL documents submitted on 11/16/2006, as being timely submitted with a proper Form PTO/SB/08a.

Of note, applicant resubmitted a complete paper copy of their 11/16/2006 IDS on 7/19/2007. Similarly to applicant's Form PTO/SB/08a that was filed via EFS on 11/16/2006, applicant's 7/19/2007 submission is not referenced in either the "Transaction History" or "Image Wrapper" of PAIR. Applicant therefore asks the Office to investigate the completeness of their file history in PAIR.

2. Rejection of Claims 1-12, 22 and 23 Under 35 USC 102(3)

Claims 1-12, 22 and 23 stand rejected under 35 USC 102(3) as being anticipated by Loui et al. (US 7,039,239 B2; hereinafter "Loui").

Applicant will treat the Examiner's rejection as a rejection under 35 USC 102(b), because 35 USC 102(3) does not exist, and because the Examiner has not given any particulars of a rejection under 35 USC 103.

With respect to claim 1, the Examiner asserts that Loui discloses "code for retrieving a plurality of training data structures that each comprise data members corresponding to feature elements and a data member identifying one of a plurality of classes" in col. 3, line 38, which references "a feature extraction stage 12" that extracts features from "an input color image 10". Applicant disagrees. More specifically, applicant notes that Loui's feature extraction stage extracts features from an image of unknown classification. At the feature extraction stage 12, the features extracted from the image 10 are not associated with "a data member identifying one of a plurality of classes". As a result, nothing that is retrieved or extracted by the feature extraction stage 12 corresponds to a training data structure, because image

10, and the features extracted therefrom, have not been classified at the feature extraction stage 12.

The Examiner further asserts that Loui discloses "code for processing each of said plurality of training data structures using probabilistic models that are a function of said feature elements to calculate a respective probability indicative of the respective training data structure belonging to its identified class" in FIG. 1, element 28. Applicant disagrees. More specifically, applicant notes that Loui's class probability map 28 is not indicative of the probability of a training data structure belonging to its identified class. Rather, the class probability map 28 is indicative of whether features in the image 10 belong to a particular class. As noted in the previous paragraph, the features extracted from the image 10 are not training data structures, but are features that are classified using training data structures.

Loui does disclose the existence and use of "labeled training data" 24 (see FIG. 1). However, Loui only discloses how to use the labeled training data 24 to classify the image 10. Loui does not disclose any method for calculating a probability indicative of whether an item of labeled training data 24 belong to its identified class.

The Examiner also asserts that Loui discloses "code for generating a scatter plot, using said plurality of training data structures, that visually indicates probabilities of said training data structures belonging to identified classes" in FIGS. 10(a)-(e). However, none of FIGS. 10(a)-(e) is a scatter plot. Loui is therefore unable to support a 35 USC 102(b) rejection of claim 1. Furthermore, applicant does not believe that FIGS. 10(a)-(e) make the generation of a scatter plot "obvious". As a result, Loui's teachings are also believed insufficient to support a prima facie 35 USC 103 rejection of claim 1.

Claim 1 is believed to be allowable for at least the above reasons.

Claims 2-12 and 23 are believed to be allowable, at least, for reasons similar to why claim 1 is believed to be allowable.

3. Rejection of Claims 13-21 and 24-26 Under 35 USC 103(a)

Claims 13-21 and 24-26 stand rejected under 35 USC 103(a) as being anticipated by Loui et al. (US 7,039,239 B2; hereinafter "Loui") in view of Donoho (IEEE Computer Graphics and Applications, July 1988, pp. 51-58).

With respect to claims 13-21 and 24-26, the Examiner asserts that Loui teaches the elements of base claims 11 and 22, and Donoho teaches the additional limitations set forth in claims 13-21 and 24-26. However, without addressing the merits of Donoho, applicant asserts that claims 13-21 and 24-26 are allowable, at least, because 1) they respectively depend from claims 11 and 22, and 2) Donoho does not teach that which is missing from Loui (as discussed in Section 2 of these Remarks/Arguments, *supra*).

4. Conclusion

In light of the amendments and remarks provided herein, applicant respectfully requests the issuance of a Notice of Allowance.

Respectfully submitted,
HOLLAND & HART, LLP
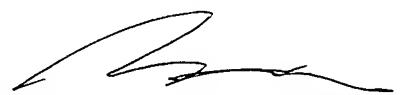
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